



DEPARTMENT OF TRANSPORTATION

[4910-EX-P]

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2015-0239]

Parts and Accessories Necessary for Safe Operation; Hino Motors Manufacturing U.S.A., Inc.

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition.

SUMMARY: The Federal Motor Carrier Safety Administration (FMCSA) announces its decision to grant Hino Motors Manufacturing U.S.A., Inc.'s (Hino) application for a limited 5-year exemption allowing motor carriers operating commercial motor vehicles (CMVs) manufactured by the company to use an Automated Emergency Braking (AEB) system and a Lane Departure Warning (LDW) system camera mounted in the windshield area at a height lower than currently allowed. The Agency has determined that lower placement of the AEB/LDW system camera would not have an adverse impact on safety and that adherence to the terms and conditions of the exemption would achieve a level of safety equivalent to or greater than the level of safety provided by the regulation.

DATES: This exemption is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER] and ending [INSERT DATE FIVE YEARS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Mrs. Amina Fisher, Vehicle and Roadside Operations Division, Office of Carrier, Driver, and Vehicle Safety, MC-PSV, (202) 366-2782, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590-0001.

Docket: For access to the docket to read background documents or comments submitted to notice requesting public comments on the exemption application, go to www.regulations.gov at any time or visit Room W12-140 on the ground level of the West Building, 1200 New Jersey Avenue, SE, Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. The on-line Federal document management system is available 24 hours each day, 365 days each year. The docket number is listed at the beginning of this notice.

SUPPLEMENTARY INFORMATION:

Background

FMCSA has authority under 49 U.S.C. 31136(e) and 31315 to grant exemptions from certain parts of the Federal Motor Carrier Safety Regulations. FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must also provide an opportunity for public comment on the request.

The Agency reviews safety analyses and public comments submitted, and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulation (49 CFR 381.305). The decision of the Agency must be published in the **Federal Register** (49 CFR 381.315(b)) with the reasons for denying or granting the application and, if granted, the name of the person or class of persons receiving the exemption, and the regulatory provision from which the exemption is granted. The notice must also

specify the effective period and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

Hino's Application for Exemption

Hino applied for an exemption from 49 CFR 393.60(e)(1) to allow an AEB/LDW system camera to be mounted lower in the windshield than is currently permitted by the Agency's regulations in order to utilize a mounting location that allows the system camera to function correctly. A copy of the application is included in the docket referenced at the beginning of this notice.

Section 393.60(e)(1)(i) of the FMCSRs prohibits the obstruction of the driver's field of view by devices mounted on the interior of the windshield. Antennas and similar devices must not be mounted more than 152 mm (6 inches) below the upper edge of the windshield, and outside the driver's sight lines to the road and highway signs and signals. However, § 393.60(e)(1)(i) does not apply to vehicle safety technologies, as defined in § 390.5 as including "a fleet-related incident management system, performance or behavior management system, speed management system, forward collision warning or mitigations system, active cruise control system, and transponder." Section 393.60(e)(1)(ii) requires devices with safety technologies to be mounted (1) not more than 100 mm (4 inches) below the upper edge of the area swept by the windshield wipers; or (2) not more than 175 mm (7 inches) above the lower edge of the area swept by the windshield wipers; and (3) outside the driver's sight lines to the road and highway signs and signals.

Hino's application stated:

Hino is making this request so that it becomes possible to introduce an Automated Emergency Braking (AEB) system and a Lane Departure Warning (LDW) system

as optional equipment on some Hino commercial motor vehicles. This system, like many other similar systems which FMCSA has granted exemptions for, requires that a camera be mounted to the upper center area of the windshield in an area where the windshield is swept by the windshield wipers to provide a clear view to the lane markings on the road.

In the Hino installation, the camera housing supplied by Meritor Wabco is approximately 4.67 inches wide by 4.30 inches tall. We propose to mount the camera such that it is in the approximate center of the windshield and such that the bottom edge of the camera is approximately 7 inches below the upper edge of the windshield, outside of the driver's and passenger's normal sight lines to all mirrors, highway signs, signals and view of the road ahead. This location will allow for the optimal functionality of the advanced safety systems supported by the camera.

Without the proposed exemption, Hino stated that it will not be able to deploy the AEB/LDW system camera in vehicle models because (1) its "customers will be fined for violating the current regulation," and (2) "the camera will not perform adequately to provide the safety benefit intended by the systems."

The exemption would apply to all Hino CMVs with the AEB/LDW system camera installed. Hino believes that mounting the AEB/LDW system camera within 7 inches below the upper edge of the windshield will allow it to function properly while maintaining an adequate field of view for the driver.

Comments

FMCSA published a notice of the application in the **Federal Register** on January 19, 2017, and asked for public comment (82 FR 6689).

The Agency received one comment from Mr. Ken Tirone, supporting the exemption application.

FMCSA Decision

The FMCSA has evaluated the Hino exemption application. The Hino AEB/LDW system camera is mounted approximately 7 inches below the top of the

windshield, and approximately 5.4 inches below the top of the area swept by the windshield wipers. Although the AEB/LDW system camera is approximately 4.3 inches tall, and mounted about 1 inch below the top of the area swept by the windshield wipers, the manner in which the camera system is installed on the windshield precludes it from being mounted (1) higher in the windshield and (2) within 4 inches from the top of the area swept by the windshield wipers in order to comply with § 393.60(e)(1)(ii)(A).

The Agency believes that granting the temporary exemption to allow the placement of the AEB/LDW system camera lower than currently permitted by the Agency's regulations will provide a level of safety that is equivalent to, or greater than, the level of safety achieved without the exemption because (1) based on the technical information available, there is no indication that the AEB/LDW system camera would obstruct drivers' views of the roadway, highway signs and surrounding traffic; (2) generally, trucks and buses have an elevated seating position that greatly improves the forward visual field of the driver, and any impairment of available sight lines would be minimal; and (3) the mounting location 5.4 inches below the top of the area swept by the windshield wipers (and 7 inches below the upper edge of the windshield) and out of the driver's normal sightline will be reasonable and enforceable at roadside. In addition, the Agency believes that the use of AEB/LDW system cameras by fleets is likely to improve the overall level of safety to the motoring public.

This action is consistent with previous Agency action permitting the placement of similarly-sized devices on CMVs outside the driver's sight lines to the road and highway signs and signals. FMCSA is not aware of any evidence showing that the

installation of other vehicle safety technologies mounted on the interior of the windshield has resulted in any degradation in safety.

Terms and Conditions for the Exemption

The Agency hereby grants the exemption for a 5-year period, beginning [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER] and ending [INSERT DATE FIVE YEARS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER]. During the temporary exemption period, motor carriers will be allowed to operate CMVs manufactured by Hino equipped with AEB/LDW system cameras mounted in the approximate center of the windshield such that the bottom edge of the camera is not more than 7 inches below the upper edge of the windshield and outside the driver's sight lines to all mirrors, highway signs, signals, and view of the road ahead. The exemption will be valid for 5 years unless rescinded earlier by FMCSA. The exemption will be rescinded if: (1) motor carriers and/or commercial motor vehicles fail to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315(b).

Interested parties possessing information that would demonstrate that motor carriers operating Hino CMVs equipped with the AEB/LDW system camera are not achieving the requisite statutory level of safety should immediately notify FMCSA. The Agency will evaluate any such information and, if safety is being compromised or if the continuation of the exemption is not consistent with 49 U.S.C. 31136(e) and 31315(b), will take immediate steps to revoke the exemption.

Preemption

In accordance with 49 U.S.C. 31315(d), as implemented by 49 CFR 381.600, during the period this exemption is in effect, no State shall enforce any law or regulation applicable to interstate commerce that conflicts with or is inconsistent with this exemption with respect to a firm or person operating under the exemption. States may, but are not required to, adopt the same exemption with respect to operations in intrastate commerce.

Issued on: [DATE] July 26, 2017

Daphne Jefferson
Deputy Administrator

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